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AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2173

Introduced by Assembly Member Beall
(Coauthors: Assembly Members Arambula, Chesbro, Coto, Davis,
Galgiani, and Ma)

February 18, 2010

An act to add and repeal Section 76000.10 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2173, as amended, Beall. Emergency—~~air~~ medical *air* transportation providers: penalty levy: reimbursement augmentation.

Existing law requires an additional county penalty of \$7 for every \$10, or part of \$10, to be levied upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, for deposit into specified county funds relating to the construction of courthouses, criminal justice facilities, and forensic laboratories, and the support of emergency medical services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, including medical transportation services, are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, authorizes each county to designate an emergency medical services agency, for the establishment and administration of an emergency medical services program in the county. Existing law also establishes the Emergency Medical Services Authority, which, among other things, adopts regulations governing the provision of emergency medical services.

This bill, which is to would be known as the Emergency-Air Medical Air Transportation Act, would impose, as specified, an additional penalty of ~~\$3~~ \$4 upon every conviction for an offense involving a vehicle violation, except certain parking offenses. This bill would require each county board of supervisors to establish in the county treasury an emergency-air medical air transportation act fund into which the penalty collected pursuant to this bill would be deposited. This bill would require, on the last day of each calendar quarter of the year, the county treasurer to transfer moneys in the county's emergency-air medical air transportation act fund to the Controller for deposit to into the Emergency-Air Medical Air Transportation Act Fund, which is created would be established by the bill. Moneys in the fund would be available, upon appropriation by the Legislature, to the department solely for the purposes of augmenting Medi-Cal reimbursement paid to emergency air medical air transportation services providers and to reimburse the department, the courts, and each county for the actual, reasonable, and necessary expenses of administering the bill.

The bill would, upon appropriation by the Legislature, require the department to use the moneys in the Emergency-Air Medical Air Transportation Act Fund and federal matching funds to increase the Medi-Cal reimbursement or supplemental payments for emergency-air medical air transportation services in an amount not to exceed normal and customary charges charged by an emergency-air ambulance medical air transportation services provider.

This bill would terminate assessment of the penalties commencing July 1, 2016, and would repeal these provisions on January 1, 2016 2018, as provided, except. The bill would require that any moneys in the Emergency Medical Air Transportation Act Fund that remain unexpended or and unencumbered on January 1, 2016, may March 2, 2017, shall be transferred to the General Fund to be available, upon appropriation by the Legislature, be made available to the department for the purposes of this bill augmenting Medi-Cal reimbursement of emergency medical air transportation and related costs, generally.

By requiring counties to create emergency—~~air~~ medical *air* transportation act funds and then deposit the levy imposed by this bill into those funds, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Air ambulance services provide lifesaving emergency
4 transportation of the most critical patients from automobile accident
5 scenes directly to trauma centers. The vast majority of helicopter
6 scene responses are motor vehicle related.

7 (b) Many of these transports originate in rural areas where
8 ground transportation is prolonged. In some instances, however,
9 air transportation may be needed in urban areas where traffic
10 congestion inhibits rapid transportation.

11 (c) Air ambulance services providers transport all emergency
12 patients without knowing if the patient has any form of medical
13 insurance or ability to pay for the service.

14 (d) Many emergency patients transported by air ambulances
15 have no insurance and no ability to pay for the service, but these
16 patients are given the same high level of care as those with medical
17 insurance.

18 (e) Unlike the hospitals where air ambulance services providers
19 deliver patients, air ambulance services providers are not eligible
20 to apply for additional federal funding for providing services to
21 high numbers of indigent patients pursuant to California's
22 disproportionate share hospital (DSH) program under the Medi-Cal
23 program.

24 (f) Unlike the hospitals and emergency physicians who treat the
25 patients after they are delivered by helicopter, air ambulance

1 services providers do not receive payment from the county Maddy
2 Emergency Medical Services Fund when they provide treatment
3 to an indigent patient.

4 (g) Emergency air ambulance services providers provide
5 coverage to multiple counties within a 100-mile radius of their
6 bases, and, as a result, often their transports originate in a county
7 other than where they are based, which makes it virtually
8 impossible for them to be funded by local tax support except in
9 the largest of counties.

10 (h) The Medi-Cal program reimburses air ambulance services
11 providers far below what it costs the providers to provide
12 emergency air transportation and pays nothing if the patient is
13 indigent and not eligible for Medi-Cal. The Medi-Cal
14 reimbursement rates for air ambulances have not increased in over
15 15 years.

16 (i) Currently fines and penalties on traffic violations total
17 between one hundred eight dollars (\$108) and nineteen-thousand
18 dollars (\$19,000), inclusive. Some of the fine and penalty money
19 is already collected by county courts and transferred to the state.

20 (j) A small additional penalty of ~~three dollars (\$3)~~ *four dollars*
21 *(\$4)* per traffic violation would result in a very small percentage
22 increase on each penalty on traffic violations, but the money
23 collected from the penalty would go to support air ambulance
24 services, which are the most critical services that support patients
25 who are injured as a result of a major collision.

26 (k) Air ambulance services play a key role in the statewide
27 emergency medical services system, including disaster response
28 and homeland security, so it is important for California to support
29 these vital services.

30 SEC. 2. Section 76000.10 is added to the Government Code,
31 to read:

32 76000.10. (a) This section shall be known, and may be cited,
33 as the Emergency ~~Air Medical~~ *Medical Air* Transportation Act.

34 (b) *For purposes of this section:*

35 (1) *“Department” means the State Department of Health Care*
36 *Services.*

37 (2) *“Director” means the Director of the State Department of*
38 *Health Care Services.*

39 (3) *“Provider” means a provider of emergency medical air*
40 *transportation services.*

(4) “Rotary wing” means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

(5) “Fixed wing” means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) “Air mileage rate” means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

~~(b)~~

(c) (1) For the purpose of implementing this section, a penalty of ~~three dollars (\$3)~~ four dollars (\$4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision shall be in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and to calculate the other additional penalties levied pursuant to this chapter.

~~(e)~~

(d) The county board of supervisors shall establish in the county treasury an emergency ~~air medical~~ medical air transportation act fund into which shall be deposited the moneys collected pursuant to this section. Moneys in each county’s fund, including interest and dividends earned thereon, shall be held by the county treasurer separate from funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

~~(d) (1) On~~

(e) (1) Within 10 days following the last day of each calendar quarter of the year, the county treasurer shall transfer moneys in the county’s emergency ~~air medical~~ medical air transportation act fund to the Controller for deposit ~~to~~ into the Emergency ~~Air Medical~~ Medical Air Transportation Act Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7,

1 the Emergency ~~Air Medical~~ *Medical Air* Transportation Act Fund
2 shall include interest and dividends earned on money in the fund.

3 (2) The Emergency ~~Air Medical~~ *Medical Air* Transportation
4 Act Fund shall be administered by the State Department of Health
5 Care Services. Moneys in the Emergency ~~Air Medical~~ *Medical*
6 *Air* Transportation Act Fund shall be made available, upon
7 appropriation by the Legislature, to ~~the department to augment~~
8 ~~emergency air medical transportation reimbursement payments~~
9 ~~made through the Medi-Cal program and to reimburse the~~
10 ~~department, the courts, and each county for its expenses of~~
11 ~~administering this section.~~ *the department to be used as follows:*

12 (A) *For payment of the administrative costs of the department,*
13 *and the actual, reasonable, and necessary costs of the courts, and*
14 *the counties in administering this section.*

15 (B) *Twenty percent of the fund remaining after payment of*
16 *administrative costs pursuant to subparagraph (A) shall be used*
17 *to offset the state portion of the Medi-Cal reimbursement rate for*
18 *emergency medical air transportation services.*

19 (C) *Eighty percent of the fund remaining after payment of*
20 *administrative costs pursuant to subparagraph (A) shall be used,*
21 *to augment emergency medical air transportation reimbursement*
22 *payments made through the Medi-Cal program, as set forth in*
23 *paragraphs (3) and (4).*

24 (D) *The counties and courts may apply to the department for*
25 *reimbursement by the department for their actual, reasonable, and*
26 *necessary costs associated with administering this section. The*
27 *department shall, upon appropriation by the Legislature, reimburse*
28 *counties and courts for their actual, reasonable, and necessary*
29 *costs and may, as a condition of reimbursement, require a fiscal*
30 *audit to ensure that the claimed reimbursement does not exceed*
31 *the actual, reasonable, and necessary costs.*

32 (3) (A) The department shall seek to obtain federal matching
33 funds by using the moneys in the Emergency ~~Air Medical~~ *Medical*
34 *Air* Transportation Act Fund for the purpose of augmenting
35 Medi-Cal reimbursement ~~paid to emergency air medical~~
36 ~~transportation services providers.~~ *paid to providers through*
37 *supplemental payments administered after June 30, 2011.*

38 (B) *The director shall do all of the following:*

39 (i) *Submit any state plan amendment or waiver request that may*
40 *be necessary to implement this section.*

1 (ii) Seek federal approvals or waivers as may be necessary to
2 implement this section and to obtain federal financial participation
3 to the maximum extent possible for the payments under this section.

4 ~~(4) The department shall use the moneys in the Emergency Air~~
5 ~~Medical Transportation Act Fund and federal matching funds to~~

6 (4) Upon appropriation by the Legislature, the department shall
7 use moneys in the Emergency Medical Air Transportation Fund
8 and federal matching funds to increase the Medi-Cal
9 reimbursement ~~or~~ by way of supplemental payments for emergency
10 ~~air-medical medical air transportation services in an amount not~~
11 ~~to exceed normal and customary charges charged by the emergency~~
12 ~~air-ambulance transportation services provider. providers, as~~
13 follows:

14 (A) Supplemental payments to providers shall not be made until
15 there is a positive fund balance in the Emergency Medical Air
16 Transportation Act Fund. The supplemental payments shall be
17 made only in a manner that ensures that there is no additional
18 burden upon the state General Fund other than the payment of
19 revenue from penalties authorized by this section.

20 (B) The department shall make supplemental payments for
21 emergency medical air transportation services for Medi-Cal
22 patients pursuant to this section twice annually, by August 31, and
23 by March 1, as follows:

24 (i) The department shall use the total fund balance 20 days after
25 the end of the second quarter, ending June 30, and the fourth
26 quarter ending December 31, to calculate the supplemental
27 payment.

28 (ii) To calculate the supplemental payment the department shall
29 use the amount specified in clause (i) and divide it by the total
30 number of Medi-Cal base rate trips paid for rotary-wing and
31 fixed-wing emergency medical air transportation for dates of
32 service corresponding to the period beginning 18 months prior to
33 the end of the quarter being calculated and ending 12 months prior
34 to the end of the same quarter. The department shall not make a
35 supplemental payment for the base rates for rotary-wing or
36 fixed-wing emergency medical air transportation that exceeds the
37 average Medicare rates for those services when combined with
38 the Medi-Cal base rate for these same services.

39 (iii) If any funds remain after the calculation of the funds
40 pursuant to clause (ii), the remaining funds shall be used to make

1 *a supplemental payment of the air mileage rates for rotary-wing*
2 *and fixed-wing emergency medical air transportation for the*
3 *Medi-Cal services in a manner similar to clause (ii), but not to*
4 *exceed the average Medicare rates paid for the same services*
5 *during this period when added to the Medi-Cal rates paid for these*
6 *service.*

7 *(iv) If any funds remain after the calculation of the funds*
8 *pursuant to clause (iii), the remaining funds shall not be matched*
9 *with federal funds and shall be provided as a second supplemental*
10 *payment to the base rates for rotary-wing and fixed-wing*
11 *emergency medical air transportation services for Medi-Cal*
12 *services following the methodology described in clause (ii).*

13 ~~(e) Subject to Section 4 of the bill that added this act, this section~~
14 ~~shall remain in effect only until January 1, 2016, and as of that~~
15 ~~date is repealed, unless a later enacted statute, that is enacted before~~
16 ~~January 1, 2016, deletes or extends that date.~~

17 ~~SEC. 3. Notwithstanding the provisions of subdivision (e) of~~
18 ~~Section 76000.10, any moneys in the Emergency Medical~~
19 ~~Transportation Act Fund that remain unexpended or unencumbered~~
20 ~~on January 1, 2016, may, upon appropriation by the Legislature,~~
21 ~~be made available to the department for the purposes of augmenting~~
22 ~~emergency air medical transportation reimbursement payments~~
23 ~~made through the Medi-Cal program and reimbursing the~~
24 ~~department, the courts, and each county for its expenses of~~
25 ~~administering Section 76000.10.~~

26 *(e) The assessment of penalties pursuant to this section shall*
27 *terminate commencing January 1, 2016. Penalties assessed prior*
28 *to January 1, 2016, shall continue to be collected, administered,*
29 *and distributed pursuant to this section until exhausted or until*
30 *March 2, 2017, whichever occurs first. On March 2, 2017, moneys*
31 *remaining unexpended and unencumbered in the Emergency*
32 *Medical Air Transportation Fund shall be transferred to the*
33 *General Fund, to be available, upon appropriation by the*
34 *Legislature, for the purposes of augmenting Medi-Cal*
35 *reimbursement for emergency medical air transportation and*
36 *related costs, generally.*

37 *(f) This section shall remain in effect only until January 1, 2018,*
38 *and as of that date is repealed, unless a later enacted statute, that*
39 *is enacted before January 1, 2018, deletes or extends that date.*

1 ~~SEC. 4.~~

2 *SEC. 3.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

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